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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/976,839	10/12/2001	David L. Latimer	264/028US	1705

33451 7590 09/10/2003

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EXAMINER

SANDERS, ALLYSON N

ART UNIT PAPER NUMBER

2876

DATE MAILED: 09/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/976,839

Applicant(s)

LATIMER ET AL.

Examiner

Allyson N Sanders

Art Unit

2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-53 and 56-57 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-45, 50-52, 56 and 57 is/are allowed.
- 6) ☒ Claim(s) 46 and 49 is/are rejected.
- 7) ☒ Claim(s) 47, 48 and 53 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 18.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Amendment

1. Receipt is acknowledged of the Amendment filed July 28, 2003.

Claim Objections

2. Claims 49 and 53 are objected to because of the following informalities:

Re claims 49 and 53, lines 2: Replace "the group" with --a group--.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 46 and 49 are rejected under 35 U.S.C. 102(e) as being Walker et al by (6,567,787).

Walker et al teaches the following in regards to claims 46 and 49:

"The processor 202 is also in communication with an input device 206, a printer 208 and a display device 210. The input device 206 preferably comprises a keypad for transmitting input signals, such as signals indicative of a purchase, to the processor 202. The input device 206 may comprise a card reader for reading magnetically-encoded information on cards passed therethrough, such as credit cards, frequent shopper cards and identity cards. The input device 206 may comprise an optical scanner for reading bar codes, such as bar codes registered on items of inventory." (Col. 3, lines 57-66).

"Identification of the operator is advantageous because it allows operator performance to be monitored and, if need be, allows operator behavior to be corrected. Furthermore, the POS terminal 200 may be customized to the operator. For example, in an embodiment where the POS terminal 200 is trained to recognize the speech characteristics of each operator ("speaker dependent voice recognition"), identifying the operator allows the speech characteristics of that operator to be retrieved from storage (e.g. in the data storage device 204 or on the identity card) and used in recognizing speech. Operators may also receive bonuses based on their performance, as described below." (Col. 8, lines 35-46).

"The POS terminal receives an audio signal (step 1108) from the operator and stores an indication of whether the audio signal corresponds to the prompt (step 1110). Thus, if the operator does not properly speak the customized prompt (e.g. he says nothing or does not say the customer's name), the transaction need not be paused but

Art Unit: 2876

the operator's recorded performance may be affected (e.g. by adjustment of the appropriate entry of the operator database 222)." (Col. 11, lines 7-14).

Allowable Subject Matter

5. Claims 47 and 48 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form, including all of the limitations of the base claim and any intervening claims.

6. Claim 53 is objected to above, but would be allowable if rewritten to overcome the above objection.

The following is an examiner's for allowance: Although Walker et al teaches performance evaluation method, the above identified prior art of record, taken alone, or in combination with any other prior art, fails to teach or fairly suggest the specific features of claims 47 and 48, such as the feedback means comprising a visual feedback display on the housing, which is visible to the operator and the visual feedback display being in the form of a graphical display. Moreover, one of ordinary skill in the art would not have been motivated to come to the claimed invention.

7. Claims 1-45, 50-52, 56, and 57 are allowed.

8. The following is an examiner's statement of reasons for allowance: The best prior art of record, taken alone or in combination, fails to specifically teach or fairly suggest the method of training a data reader operator or method of scanning, which are disclosed in the claims. The prior art taken of record fails to teach each of the specific and detailed limitations which are set forth in the claims such as the operator passing an item through a read volume of a data reader, obtaining symbol data and item

Art Unit: 2876

identification data, monitoring reading technique to obtain read technique data, sending the item identification data and the read technique data to an evaluation system, obtaining optimum read technique data, comparing the read technique data to the optimum read technique data to determine an effectiveness of the reading technique, and lastly, providing feedback indicating the effectiveness of the reading technique.

Additionally, prior art fails to teach the method of scanning which includes an operator passing an item through the scan volume of a scanner while moving the item across a weigh scale integrated with the scanner. The symbol on the item is scanned to obtain symbol data and a dynamic weight of the item is obtained when the item is moved across the weigh scale. Once the dynamic weight is determined, the optimum dynamic weight is obtained from a lookup table containing item weight data corresponding to the symbol data. The dynamic weight of the item is compared to the optimum dynamic weight data to determine an extent of lifting performed by the operator and data regarding the extent of lifting to at least one of a training system and monitoring system is provided. Still further prior art fails to teach a feedback means in communication with a processor for providing feedback indicating the effectiveness of the scanning technique.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Remarks

9. Applicant has not filed an amendment or made any arguments regarding or addressing the rejection of claims 46 and 49 as seen in the previous office action. Therefore the rejection under 102(e) of claims 46 and 49 is maintained.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to *Allyson Sanders* whose telephone number is (703) 305-

Art Unit: 2876

5779. The examiner can normally be reached between the hours of 7:30AM to 4:00PM Monday thru Friday.

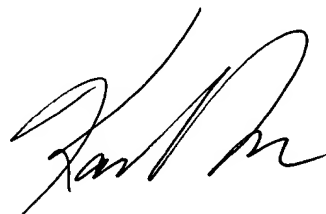
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee, can be reached on (703) 305-3503. The fax phone number for this Group is (703) 308-7722, (703) 308-7724, or (703) 308-7382.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [allyson.sanders@uspto.gov].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0956.

Allyson Sanders
Patent Examiner
Art Unit 2876
September 5, 2003



KARL D. FRECH
PRIMARY EXAMINER